

**TITLE 14. Fish and Game Commission
Notice of Proposed Changes in Regulations**

NOTICE IS HEREBY GIVEN that the Fish and Game Commission (Commission), pursuant to the authority vested by Sections 200, 202, 203, 203.1, 331, 332, 1050, 1572, 3452, 3453, 4005, 4009.5, 4751, 4902 and 10502 of the Fish and Game Code and to implement, interpret or make specific sections 200, 202, 203, 203.1, 207, 331, 332, 460, 713, 1050, 1570-1572, 1801, 3452, 3453, 3800, 3950, 3951, 4005, 4009.5, 4330-4333, 4336, 4751, 4756, 4800-4805, 4902, 10500 and 10502 of said Code, proposes to amend Sections 353 and 475, Title 14, California Code of Regulations, relating to Mammal Hunting – Method of Take Regulations.

Pursuant to the provisions of sections 203 and 203.1 of the Fish and Game Code, the Fish and Game Commission will consider populations, habitat, the welfare of individual animals, and other pertinent facts and testimony in adopting areas of take, and prescribe the manner and means of taking as part of the 2007-2008 Mammal Hunting Regulations.

At the Fish and Game Commission's meeting on February 2, 2007, the Department of Fish and Game made the following recommendations for changes relative to game mammal regulations for the 2007-2008 seasons: proposes to amend sections 353 and 475, Title 14, California Code of Regulations, regarding methods authorized for taking big game and methods of take for nongame birds and nongame mammals.

Informative Digest/Policy Statement Overview

Amend Section 353, Title 14, CCR, Re: Methods Authorized for Taking Big Game

The existing regulations provide for methods to be used to take big game. Traditionally, bullets containing lead have been used for taking big game. The regulation change proposed here would require non-lead bullets, muzzleloader balls, and/or shotgun slugs for the taking of big game mammals in the geographic area inhabited by free-ranging California condors. This area is identified in existing regulation by the boundaries established as deer hunt zones as the South Unit A Deer zone, and all of deer zones D9, D10, D11, and D13.

Alternatives to the proposed action are “no change” to existing regulation; requiring non-lead ammunition throughout the recognized California condor range; and requiring non-lead bullets statewide.

In the past two decades, State, federal, and non-profit organizations have diligently worked to save and reintroduce the endangered California condor into the wilds of its former range. These conservation efforts, including substantial research investigations, have resulted in the determination that lead toxicity/lead poisoning is a factor affecting condor health and survival. The Department mission is to conserve California's wildlife for use and enjoyment by the citizens of the State. Reducing the risk to the condor of lead poisoning through big game hunting activities is the intent of this regulation change.

Based on information currently available, the Department does not believe that requiring the use of non-lead ammunition for the hunting of big game in California condor range will cause any fundamental changes to the operation of the Department's Wildlife Programs, as evidenced by the change to non-lead shot for waterfowl hunting in California several years ago. The proposal requires hunters in the specified area of the state inhabited by free-ranging California condor to use non-lead containing bullets, muzzleloader balls, and/or shotgun slugs for the taking of big game.

Amend Section 475, Title 14, CCR, Re: Methods of Take for Nongame Birds and Nongame Mammals

The existing regulations provide for methods to be used, as well as methods prohibited, for the take of nongame birds and nongame mammals. Traditionally, bullets made of lead have been used for take of many nongame birds and nongame mammals. The regulation change proposed here would require that

centerfire bullets, muzzleloading balls, slugs and buckshot used for the take of nongame birds and nongame mammals in the geographic area inhabited by the California condor be non-lead bullets. This area is identified in existing regulation by the boundaries established as deer hunt zones as the South Unit A Deer zone, and all of deer zones D9, D10, D11, and D13.

Alternatives to the proposed action are "no change" to existing regulation; requiring non-lead bullets (for the above methods only) throughout the recognized California condor range; and requiring non-lead bullets (for the above methods only) statewide.

In the past two decades, State, federal, and non-profit organizations have diligently worked to save and reintroduce the endangered California condor into the wilds of its former range. These conservation efforts, including substantial research investigations, have resulted in the determination that lead toxicity/lead poisoning is a factor affecting condor health and survival. The Department mission is to conserve California's wildlife for use and enjoyment by the citizens of the State. Reducing the risk to the condor of lead poisoning through big game hunting activities is the intent of this regulation change.

Based on information currently available, the Department does not believe that requiring the switching to non-lead ammunition for the hunting of nongame birds and nongame mammals in California condor range will cause any fundamental changes to the operation of the Department's Wildlife Programs, as evidenced by the change to non-lead shot for waterfowl hunting in California several years ago. The proposal requires that centerfire bullets, muzzleloading balls, slugs and buckshot used for the take of nongame birds and nongame mammals in the geographic area inhabited by the California condor, be non-lead bullets.

NOTICE IS GIVEN that any person interested may present statements, orally or in writing, relevant to this action at a hearing to be held at Humboldt State University, Nelson Hall West, Goodwin Forum, 1 Harpst Street, Arcata, California on Friday, March 2, 2007, at 8:30 a.m., or as soon thereafter as the matter may be heard.

NOTICE IS ALSO GIVEN that any person interested may present statements, orally or in writing, relevant to this action at a hearing to be held in the Bodega Bay Marine Laboratory, Lecture Hall, 2099 Westside Road, Bodega Bay, California on Friday, April 13, 2007, at 8:30 a.m., or as soon thereafter as the matter may be heard. It is requested, but not required, that written comments be submitted on or before April 6, 2007, at the address given below, or by fax at (916) 653-5040, or by e-mail to FGC@fgc.ca.gov. Written comments mailed, faxed or e-mailed to the Commission office, must be received before 5:00 p.m. on April 9, 2007. All comments must be received no later than April 13, 2007, at the hearing in Bodega Bay, CA. If you would like copies of any modifications to this proposal, please include your name and mailing address.

The regulations as proposed in strikeout-underline format, as well as an initial statement of reasons, including environmental considerations and all information upon which the proposal is based (rulemaking file), are on file and available for public review from the agency representative, John Carlson, Jr., Executive Director, Fish and Game Commission, 1416 Ninth Street, Box 944209, Sacramento, California 94244-2090, phone (916) 653-4899. Please direct requests for the above mentioned documents and inquiries concerning the regulatory process to Sheri Tiemann at the preceding address or phone number. **Craig Stowers, Wildlife Programs Branch, phone (916) 445-3553, has been designated to respond to questions on the substance of the proposed regulations.** Copies of the Initial Statement of Reasons, including the regulatory language, may be obtained from the address above. Notice of the proposed action shall be posted on the Fish and Game Commission website at <http://www.fgc.ca.gov>.

Availability of Modified Text

If the regulations adopted by the Commission differ from but are sufficiently related to the action proposed, they will be available to the public for at least 15 days prior to the date of adoption. Circumstances beyond the control of the Commission (e.g., timing of Federal regulation adoption, timing of resource data collection, timelines do not allow, etc.) or changes made to be responsive to public recommendation and comments during the regulatory process may preclude full compliance with the 15-day comment period, and the Commission will exercise its powers under Section 202 of the Fish and Game Code. Regulations adopted pursuant to this section are not subject to the time periods for adoption, amendment or repeal of regulations prescribed in Sections 11343.4, 11346.4 and 11346.8 of the Government Code. Any person interested may obtain a copy of said regulations prior to the date of adoption by contacting the agency representative named herein.

If the regulatory proposal is adopted, the final statement of reasons may be obtained from the address above when it has been received from the agency program staff.

Impact of Regulatory Action

The potential for significant statewide adverse economic impacts that might result from the proposed regulatory action has been assessed, and the following initial determinations relative to the required statutory categories have been made:

- (a) Significant Statewide Adverse Economic Impact Directly Affecting Businesses, Including the Ability of California Businesses to Compete with Businesses in Other States:

Sections 353 and 475

The proposed action will not have a significant statewide adverse economic impact directly affecting business, including the ability of California businesses to compete with businesses in other states.

Businesses relying on the sale of lead bullets also have the capability to sell non-lead bullets. These businesses will still have the capability to sell lead bullets for use in other activities than the proposed regulation changes such as target shooting, hunting big game elsewhere in California, or hunting in other states. A similar circumstance, when hunting of waterfowl switched from lead shot to non-lead shot, supports the contention that there will be no significant adverse economic impact on business.

- (b) Impact on the Creation or Elimination of Jobs Within the State, the Creation of New Businesses or the Elimination of Existing Businesses, or the Expansion of Businesses in California: None
- (c) Cost Impacts on a Representative Private Person or Business:

A private person or business will be required to pay a new fee pursuant to proposed regulations geared to recover the department's cost of administering the program.
- (d) Costs or Savings to State Agencies or Costs/Savings in Federal Funding to the State: None
- (e) Nondiscretionary Costs/Savings to Local Agencies: None
- (f) Programs mandated on Local Agencies or School Districts: None
- (g) Costs Imposed on Any Local Agency or School District that is required to be Reimbursed Under Part 7 (commencing with Section 17500) of Division 4: None
- (h) Effect on Housing Costs: None

Effect on Small Business

It has been determined that the adoption of these regulations may affect small business.

Consideration of Alternatives

The Commission must determine that no reasonable alternative considered by the Commission, or that has otherwise been identified and brought to the attention of the Commission, would be more effective in carrying out the purpose for which the action is proposed or would be as effective and less burdensome to affected private persons than the proposed action.

FISH AND GAME COMMISSION

Dated: February 6, 2007

John Carlson, Jr.
Executive Director